REMARKS

At the time of the Final Office Action dated December 11, 2008, claims 1-10 were pending in this application. Claim 1 has been rejected, and claims 11-29 were canceled. Newly added claims 30-39 correspond to previously canceled claims 11-20.

CLAIMS 1-29 ARE REJECTED UNDER U.S.C. § 103 FOR OBVIOUSNESS BASED UPON MARX ET AL., U.S. PATENT NO. 6,173,266 (HEREINAFTER MARX), IN VIEW OF ZIRNGIBL ET AL., U.S. PATENT NO. 7,266,181 (HEREINAFTER ZIRNGIBL)

On pages 11 of the Final Office Action, the Examiner asserted that one having ordinary skill in the art would have been realistically impelled to modify Marx in view of Zirngibl to arrive at the invention corresponding to that claimed in Claims 1-10. This rejection is respectfully traversed.

Obviousness is a legal conclusion based on underlying factual determinations of four general types, all of which must be considered by the trier of fact: (1) the scope and content of the prior art; (2) the level of skill in the art; (3), the differences between the claimed subject matter and the prior art; and (4) any objective indicia of nonobviousness.[1]. Applicants' position is that the Examiner has not properly established the underlying facts regarding (1) the scope and content of the prior art and (3) the differences between the claimed invention and the prior art.

[1] See KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1734, 82 USPQ2d 1385, 1391 (2007); Graham v. John Deere Co., 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966); Continental Can Co. USA, Inc. v. Monsanto Co., 948 F.2d 1264, 1270, 20 USPQ2d 1746, 1750-51 (Fed. Cir. 1991); Panduit Corp. v. Dennison Mfg. Co., 810 F.2d 1561, 1566-68, 1 USPQ2d 1593, 1594 (Fed. Cir. 1987).

Thus, the Examiner has improperly arrived at the legal conclusion that the claimed invention is obvious based upon Marx in view of Zirngibl.

Claim 1

Independent claim 1, in part, recites "presenting a style-selection menu that allows for selection of one or more catch styles, each catch style corresponding to a system response to a catch event, wherein each catch style provides a different level of complexity with regard to preparing a system's audio response to be played in a dialog turn, the catch event comprising at least one event in which a user entry is not understood occurring during the dialog turn, the event being selected from the group consisting of a user request for help, a non-input entry, and a non-matching entry." To teach these limitations, on pages 5-6 the Office Action, the Examiner asserted the following:

> Concerning independent claims 1, 11, and 20, the only **elements not expressly disclosed by Marx et al. are the concepts of "style"-selection and "catch styles"**... However it is known in the art of voice services to provide style sheets to create interactive voice services to provide style sheets to create interactive voice services. Specifically, Zirngibl et al. teaches a system and method for creation and automatic deployment of personalized dynamic and interactive voice services, where XML (extensible style sheet language) style sheets are provided to create voice services. An objective is to maximum an administrator's voice service building capability. (Column 11, Lines 32 to 49) It would have been obvious to one having ordinary skill in the art to apply a concept of "style" to selection of "catch styles" as taught by Zirngibl et al. in a Dialogue Module selection method of Marx et al. for a purpose of maximizing an administrator's voice service building capability. (emphasis added).

Applicants agree with the Examiner, "Marx *et al.* does not specifically teach the "presenting a **style-selection menu** that allows for selection of one or more **catch styles**, each **catch style** corresponding to a system response to a **catch event**, the catch event comprising at least one event in which a user entry is not understood occurring during a dialog turn, the event being selected from the group consisting of a user request for help, a non-input entry, and a non-matching entry."

Moreover, Applicants respectfully submit that claims 1-10 and 30-39 are neither anticipated nor rendered obvious by the applied prior art. For example, Marx and Zirngibl also fail to teach "wherein each catch style provides a different level of complexity with regard to preparing a system's audio response to be played in a dialog turn". Thus, Applicants respectfully submit that a rejection of claims 1-10 and 30-39 for obviousness based upon Marx in view of Zirngibl would not be proper.

Applicants have made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicants hereby respectfully request reconsideration and prompt allowance of the pending claims.

Although Applicants believe that all claims are in condition for allowance, the Examiner is directed to the following statement found in M.P.E.P. § 706(II):

> When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction. (emphasis added)

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-3829, and please credit any excess fees to such deposit account.

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Respectfully submitted,

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